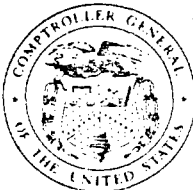


# DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548

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FILE: B-183794

DATE: October 9, 1975

MATTER OF: Victor P. Tyne - Reimbursement for attorney's  
fees and miscellaneous expenses

DIGEST: Employee who reclaimed on appeal expenses incurred in connection with plumbing and electrical alterations of his new residence is not entitled to reimbursement of such expenses under section 2-3.1(c)(13) of the FTR. Such alterations are in the nature of improvements adding to the value of the realty. Upon submission of itemized bills from his attorney, it was found that the attorney's fees, with the exception of the charge for writing 24 letters, are reasonable and therefore reimbursable under the regulation. New Settlement Certificate will issue for additional amounts found due.

This action is an appeal from that part of our Transportation and Claims Division Certificate of Settlement Z-2559401, issued on January 31, 1975, which disallowed reimbursement of certain miscellaneous and real estate expenses incurred by Mr. Victor P. Tyne in connection with the transfer of his official duty station from New York, New York, to White Plains, New York, pursuant to Travel Order No. 845014 dated July 6, 1973, as an employee of the Administrative Office of the United States Courts.

The record shows that on July 25, 1973, Mr. Tyne filed a claim with his administrative office for reimbursement of travel and transportation expenses in connection with his transfer in the amount of \$1,409.20. Payment of the balance due was delayed pending a decision from the General Accounting Office as to allowable amounts for additional miscellaneous and real estate expenses.

The additional miscellaneous and real estate expenses included attorney's fees for the selling of his old residence and also for the purchase of his new residence. In addition there was a claim for \$196.98 and \$309.75 for plumbing and electrical services, respectively, and for certain other expenses about which he was advised by his administrative office in a letter dated January 3, 1974, concerning the manner in which he must perfect his claim. The necessity of allocating dollar amounts to each service included in the attorney's fee was pointed out to him at that time.

After the receipt of an administrative report our Transportation and Claims Division issued a Settlement Certificate in Mr. Tyne's name on January 31, 1975, and he was allowed an additional amount of \$528.58 for miscellaneous and real estate expenses, less \$105.72 Federal withholding tax. Among the items disallowed were the \$196.98 and \$309.75 for plumbing and electrical expenses, respectively; \$250 attorney's fee in connection with the sale of the residence at his old duty station; and \$375 attorney's fees in connection with the purchase of a residence at his new duty station. The plumbing and electrical expenses were disallowed in accordance with section 2-3.1(c)(13) of the Federal Travel Regulations (FTR), effective May 1, 1973, and the claim for the attorney's fees was disallowed on the ground that payment cannot be based on a lump-sum bill without itemized dollar amounts for each service rendered.

By letter of April 10, 1975, Mr. Tyne appealed the settlement by our Transportation and Claims Division and submitted itemized bills by Charles J. Tyne, Counsellor at Law, for services rendered to Victor F. Tyne and Judith Tyne, and reclaimed an amount of \$1,251.73. An undated letter from Mr. Tyne was received in the General Accounting Office on April 16, 1975, in which the amount reclaimed was raised to \$1,301.73.

In a letter dated June 2, 1975, Mr. Tyne advised the General Accounting Office that the letter appealing the settlement by the Transportation and Claims Division is the April 10, 1975 letter. We, therefore, consider that the amount claimed is \$1,251.73, consisting of the expenses covering the plumbing and electrical bills and the attorney's fees.

With respect to the appeal of the disallowance of the plumbing and electrical expenses, section 2-3.1(c) of the FTR provides for types of costs of miscellaneous expenses which are not reimbursable. Subsection (13) thereof reads as follows:

"(13) Costs incurred in connection with structural alterations; remodeling or modernizing of living quarters, garages or other buildings to accommodate privately owned automobiles, appliances or equipment; or the cost of replacing or repairing worn-out or defective appliances, or equipment shipped to the new location."

The record contains a bill in the amount of \$196.98 from Windsor Heating and Plumbing dated August 20, 1973, which is for roughing in and installing one washing machine and dryer and for repairing one water closet and a bill from Mains and Mains Electrical Corporation dated August 28, 1973, in the amount of \$309.75 for installation of 100-amp. service and two 20-amp. circuits and receptacles for appliances. Mr. Tyne has indicated that those services were required because the house he bought was inadequately wired.

Since these structural alterations are in the nature of improvements to the realty which add to the value of the house, we find that there is no basis for reimbursement of these expenses, and the disallowance of this portion of the claim by our Transportation and Claims Division is hereby sustained.

With respect to the attorney's fees, we noticed a discrepancy between the amounts claimed in the lump-sum bills and the amounts claimed when the services were actually itemized. This discrepancy was pointed out to Mr. Tyne in our letter of May 28, 1975, but it was never adequately explained. During the entire prior development of the claim, Mr. Tyne claimed \$250 as a lump-sum attorney's fee in connection with the sale of his old residence and \$375 as an attorney's fee in connection with the purchase of his new residence. We will treat these amounts as the amounts claimed for legal expenses and disregard the subsequent attempt to increase the claim.

Section 2-6.2c of the FTR provides as follows:

"c. Legal and related expenses. To the extent such costs have not been included in brokers' or similar services for which reimbursement is claimed under other categories, the following expenses are reimbursable with respect to the sale and purchase of residences if they are customarily paid by the seller of a residence at the old official station or if customarily paid by the purchaser of a residence at the new official station, to the extent they do not exceed amounts customarily charged in the locality of the residence: costs of (1) searching title, preparing abstract, and legal fees for a title opinion or (2) where customarily furnished by the

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seller, the cost of a title insurance policy; costs of preparing conveyances, other instruments, and contracts and related notary fees and recording fees; costs of making surveys, preparing drawings or plats when required for legal or financing purposes; and similar expenses. Costs of litigation are not reimbursable."

The two itemized bills for legal services show charges of \$120 for writing and mailing 24 letters at \$5 a letter which must be deducted from the total fee of \$625 as originally claimed. The balance of the original claim as later itemized is allowable under the above-quoted regulation.

Accordingly, a new Settlement Certificate will issue in favor of Mr. Tyne allowing an additional \$505 for attorney's fees in connection with the real estate transactions incident to the transfer of his official duty station.

Thomas D. Morris

Acting Comptroller General  
of the United States